

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-36718
Issue No.: 2009
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 28, 2010
Wayne County DHS (82)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on July 28, 2010. [REDACTED] was the authorized representative appearing on behalf of the Special Personal Representative of claimant's Estate. Following the hearing, the record was kept open for the receipt of additional evidence. Additional documents were received and reviewed.

ISSUE

Did the Department of Human Services (DHS or department) properly determine that claimant was not "disabled" for purposes of the Medical Assistance (MA-P) program?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On March 18, 2010, an application was filed on claimant's behalf for MA-P benefits. The application requested MA-P retroactive to January of 2010.
2. On May 14, 2010, the department denied claimant's application for benefits based upon the belief that claimant did not meet the requisite disability criteria.
3. On May 20, 2010, a hearing request was filed to protest the department's determination.
4. At the time of application, claimant was 53 years old. Claimant had a high-school education.

5. Claimant last worked in 2005 as an aircraft maintenance person.
6. Claimant had a history of Type II diabetes mellitus, diabetic neuropathy, hypertension, congestive heart failure, hepatitis C-cirrhosis, and peripheral vascular disease.
7. Claimant was hospitalized [REDACTED] as a result of cellulitis and osteomellitus of his great right toe. He underwent amputation of his toe. His discharge diagnosis was osteomellitus of the right great toe, diabetes mellitus, hepatitis C, and hypertension.
8. Claimant sought emergency room treatment on [REDACTED] for presumed cellulitis of his second and third toes. He was diagnosed with cellulitis present over the dorsum of the right foot with secondary diagnosis of diabetes mellitus, hepatitis C, and hypertension.
9. Claimant was hospitalized [REDACTED] as a result of right foot cellulitis and edema. His discharge diagnosis was right foot cellulitis, edema with cellulitis, intravenous antibiotics; diabetes mellitus Type II; peripheral vascular disease; anemia; history of smoking; obesity; and history of right toe amputation.
10. Claimant was hospitalized [REDACTED]. He was discharged with pneumonia, cirrhosis, diabetes, and cellulitis.
11. Claimant sought emergency room treatment on [REDACTED]. He was diagnosed with infected right second toe, diabetes, and possible osteomellitus.
12. Claimant was hospitalized [REDACTED] 0. Claimant had been directed to the hospital by his physician who told him that his hemoglobin was low, his labs were abnormal, and he needed a transfusion. Claimant was diagnosed with malignant B-cell lymphoma, ascites, anemia, cirrhosis, alcohol liver disease, hepatitis C, thrombocytopenia, acute renal failure, liver failure, pedal edema, diabetes, hypoglycemia, history of peripheral arterial disease, failure to thrive, and poor prognosis.
13. Claimant was re-hospitalized [REDACTED]. His diagnosis was malignant B-cell lymphoma, worsening renal insufficiency, mental status change, encephalopathy, ascites, cirrhosis, hepatitis C, and diabetes Type II with recent hypoglycemia on previous submission.
14. On [REDACTED], claimant passed away. His Death Certificate lists ascites and renal failure as well as lymphoma-malignant, B-cell as the cause of death.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Federal regulations require that the department use the same operative definition for “disabled” as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

“Disability” is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months ... 20 CFR 416.905.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, claimant was not working during any of the relevant period. Accordingly, claimant may not be disqualified for MA at this step in the sequential evaluation process.

Secondly, in order to be considered disabled for purposes of MA, a person must have a severe impairment. 20 CFR 416.920(c). A severe impairment is an impairment which significantly limits an individual’s physical or mental ability to perform basic work activities. Basic work activities means the abilities and aptitudes necessary to do most jobs. Examples of these include:

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;

- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6th Cir, 1988). As a result, the department may only screen out claims at this level which are “totally groundless” solely from a medical standpoint. The *Higgs* court used the severity requirement as a “*de minimus* hurdle” in the disability determination. The *de minimus* standard is a provision of a law that allows the court to disregard trifling matters.


In this case, the record presented contains the required medical data and evidence necessary to support a finding that claimant had significant physical limitations upon his ability to perform basic work activities such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling. Medical evidence has clearly established that claimant had an impairment (or combination of impairments) that had more than a minimal effect on claimant’s work activities. See Social Security Rulings 85-28, 88-13, and 82-63.

In the third step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant’s impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. Based upon the hearing record, the undersigned finds that claimant’s impairment(s) during the period in question met or equaled a “listed impairment.” See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A, Section 9.08. Claimant was clearly severely ill from [REDACTED]. The medical record clearly supports a finding that claimant was completely disabled from [REDACTED]. The record supports a finding that claimant met or equaled a listed impairment which resulted in his death. Accordingly, the undersigned finds that claimant was disabled from [REDACTED] for purposes of the MA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant clearly met the definition of medically disabled from [REDACTED] under the Medical Assistance program.

Accordingly, the department is ordered to initiate a review of the March 18, 2010, application, if it has not already done so, to determine if all other non medical eligibility criteria are met. The department shall inform the authorized representative of its determination in writing.


Linda Steadley Schwarz
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 17, 2010

Date Mailed: August 18, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

LSS/pf

cc:

